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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,968	12/13/2004	Roger Boen	034299-611	1948
7590 Thelen Reid & Priest PO Box 640640 San Jose, CA 95164-0640		12/03/2007	EXAMINER KERNs, KEVIN P	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 12/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/517,968	BOEN ET AL.	
	Examiner	Art Unit	
	Kevin P. Kerns	1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 October 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 December 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)

Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 403 138.

As to claims 1, 2, 9, and 12, EP '138 discloses a device capable for fusion and agitation on two immiscible phases. The device comprising a crucible (10), fusion and agitation means (14), wherein the fusion means comprises an inductor to supply alternating current at first and second frequencies, wherein the first may be lower than the second (abstract).

As to claim 3, EP '138 discloses a capacitor (38), an induction generator (36), and a function generator (34) (Figure 1).

As to claim 4, the induction generator (36) is capable to generate 10 to 300 kW.

As to claim 5, the frequency can be formed between 1 to 20 kHz.

As to claim 6, the modulation frequency can be from 0.5 to 10 Hz.

As to claims 7 and 8, the crucible can be hot or cold.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP ('138) in view of Eckert (US 5,968,223).

EP '138 discloses the claimed invention above, but lacks the mentioning of susceptors in the crucible.

However, Eckert discloses baffle heaters placed in the crucible to promote heating of the molten metal by both sides of the baffle heaters (col. 4, lines 17-21).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants' invention was made to have baffle heaters, as taught by Eckert, in EP '138, for the purpose of promoting heat in the molten metal.

Response to Arguments

6. The examiner acknowledges the applicants' amendment received by the USPTO on October 19, 2007. Claims 1-12 remain under consideration in the application.

7. Applicants' arguments filed on October 19, 2007 have been fully considered but they are not persuasive.

With regard to the applicants' remarks/arguments on pages 5-7 of the amendment, the applicants argue that EP '138 does not teach the amended limitations "a single inductor", "a single means of supplying", and "a single variable current". The examiner respectfully disagrees. As clearly shown in Figures 1-3, EP '138 teaches only a single inductor, which is inductor (14). EP '138 further teaches a single means of supplying (16), which is capable to supply a single current (col. 3, lines 38-42). The power supply circuit (16) can be set to supply a single variable current, as set forth in amended independent claim 1. Therefore, the applicants' amendment does not define over EP '138. Contrary to the applicants' arguments throughout pages 6 and 7, Eckert discloses the disputed features of claims 10 and 11, and one of ordinary skill in the art would have found it to be obvious to combine Eckert's teachings with those of EP '138,

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in order to promote heating of the molten metal to the desired degree (e.g. to obtain a thermal gradient for the molten metal). As a result, claims 1-12 remain rejected.

Conclusion

8. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kevin P. Kerns whose telephone number is (571) 272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jonathan Johnson can be reached on (571) 272-1177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin P. Kerns *KernsKerns 11/27/07*
Primary Examiner
Art Unit 1793

KPK

kpk

November 27, 2007